

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 4-26-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits on 2-28-03, 6-13-03, 9-2-03 and 10-13-03 **were found to be** medically necessary. The office visits on 6-9-03, 6-19-03, 10-15-03 and all neuromuscular reeducation **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 6-22-04, the Medical Review Division submitted a Notice to the requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's for the services listed below, however, reconsideration HCFA's were provided. The disputed service will be reviewed according to the fee guidelines (both 96MFG and Medicare Fee Guidelines) since the requester submitted "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B).

CPT Code 97122 for dates of service 2-28-03, 3-19-03, 3-20-03, 5-8-03, 5-28-03, 6-13-03, 6-19-03, 9-2-03 - **Recommend reimbursement of \$245.00.** (7 dos x \$35.00) Not a valid Medicare code. No payment for dos 9-2-03.

CPT Code 97250 for dates of service 2-28-03, 3-19-03, 3-20-03, 5-8-03, 5-28-03, 6-13-03, 6-19-03  
**Recommend reimbursement of \$301.00.** (7 dos x \$43.00)

CPT Code 97112 for dates of service 2-28-03, 3-19-03, 3-20-03, 5-8-03, 5-28-03, 9-2-03. **Recommend reimbursement of \$208.41.** (5 dos x \$35.00. 1 dos at \$33.41)

CPT Code 99213 for dates of service 3-19-03, 3-20-03, 5-8-03, 5-28-03, 6-19-03. **Recommend reimbursement of \$240.00).** (5 dos x \$48.00)

CPT Code 99214 for date of service 11-17-03. **Recommend reimbursement of \$92.30.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003; in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 2-28-03 through 11-17-03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 5<sup>th</sup> day of November 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

Enclosure: IRO decision

## NOTICE OF INDEPENDENT REVIEW DECISION

July 30, 2004

**AMENDED LETTER 10/13/04**

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-04-2722-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This 44 year-old female was injured \_\_\_ when her chair collapsed, causing her to fall back and hit her head and back. Her diagnoses are listed as cervical segmental dysfunction, lumbar muscle spasm, thoracic segmental dysfunction, and lumbosacral segmental dysfunction. She has not undergone any surgery but has had facet joint injections and physical therapy. She is now able to work full-time with only occasional exacerbations of her chronic neck and back pain.

### Requested Service(s)

Neuromuscular re-education and office visits on 02/28/03, 06/09/03, 06/13/03, 06/19/03, 09/02/03, 10/13/03, and 10/15/03.

## Decision

It is determined that the office visits on 02/28/03, 06/13/03, 09/02/03 and 10/13/03 were medically necessary for the evaluation of the patient. However, the office visits on 06/09/03, 06/19/03 and 10/15/03 were not medically necessary.

It is determined that the neuromuscular reeducation was not medically necessary on 02/28/03, 06/09/03, 06/13/03, 06/19/03, 09/02/03, 10/13/03, and 10/15/03.

## Rationale/Basis for Decision

The patient began her chiropractic treatments on 04/15/02 and a previous magnetic resonance imaging (MRI) study dated 09/05/01 revealed that the patient had extradural defects at C4-5, C5-6, and C6-7 due to a combination of osteophyte formation and disc protrusions. The extradural defects at C5-6 and C6-7 resulted in bilateral foraminal stenosis and osteophytes extended from the uncovertebral joints. Extrinsic pressure was placed on the cervical spinal cord at C5-6 on the right due to osteophyte formation. The claimant's 09/05/01 lumbar MRI revealed a minimal disc protrusion at L5-S1 that did not create any neural impingement. Radiographs dated 10/03/00 revealed a loss of disc height at L5-S1 and cervical x-rays dated 09/05/01 revealed osteophytes extending posteriorly at C5, C6, and C7 with reversal of the cervical lordosis.

The neuromuscular reeducation on 02/28/03, 06/09/03, 06/13/03, 06/19/03, 09/02/03, 10/13/03, and 10/15/03 were not medically necessary. The patient underwent numerous chiropractic treatments from April of 2002 through November of 2003 and the medical record indicated that she was treated with office visits, myofascial release, multiple units of manual traction, and multiple units of unspecified neuromuscular reeducation.

It appears that these treatments rendered in 2003 were of little or no observable, substantive clinical benefit. An adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated (*Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993*). The patient has had a protracted care in excess of the parameters delineated by the above-mentioned document and has not demonstrated a favorable response to treatment.

The progress notes revealed no lasting benefits from the chiropractic treatments and the records revealed no evidence of a neuromuscular deficit that would necessitate the use of neuromuscular reeducation. Neuromuscular reeducation is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the claimant's. The Current Procedural Terminology (CPT) Code Book defines neuromuscular reeducation as: "*neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception*". The progress notes for the claimant's office visits do not provide medical necessity for the use of this procedure at each office visit, as no evidence of a neurological deficit leading to a breakdown in the neural link between the locomotor cortex of the brain and the musculoskeletal system was identified in the records as affecting the patient. Therefore, the neuromuscular reeducation was not medically necessary.

A review of the patient's self-reported pain scores revealed that the treatments rendered on the above-mentioned dates of service were ineffective. The maximum therapeutic benefits associated with manipulative regimens are noted in the first few weeks of treatment with diminishing results thereafter. Triano studied the differences in treatment history with manipulation for acute, subacute, and recurrent spine pain and found that all but 25 (10.37 percent) of the original 241 patients in the study had their conditions resolve in six weeks or less (*Triano, J.J., et al, "Differences in treatment history with manipulation for acute, subacute, chronic, and recurrent spine pain", JMPT, 15:24-30, 1992*).

Haldeman reported that manipulation appears to have its greatest effect immediately following treatment and during the initial two to six weeks of ongoing treatment. Haldeman noted that the effectiveness of manipulation for the management of back pain seems to be minimal at 3 months to 12 months (*Haldeman, S., "Spinal manipulative therapy: A status report", Clinical Orthopedics and Related Research, 179:62-70, 1983*).

Chiropractic literature clearly demonstrates that the response to manipulation diminishes as the length of the condition increases. McDonald and Bell, in an open controlled pilot trial on nonspecific low back pain patients to assess the effects of spinal manipulation (*McDonald, R.S. and Bell, C., "An open controlled assessment of osteopathic manipulation in nonspecific low back pain", Spine, 15:364-370, 1990*), found that after 4 to 6 weeks there was no more appreciable improvement in the patient's disability index (a measure of activities of daily living interference).

Therefore, the office visits on 02/28/03, 06/13/03, 09/02/03, and 10/13/03 were medically necessary for the evaluation of the patient. However, the office visits on 06/09/03, 06/19/03 and 10/15/03 and the neuromuscular reeducation on 02/28/03, 06/09/03, 06/13/03, 06/19/03, 09/02/03, 10/13/03, and 10/15/03 were not medically necessary to treat this patient's condition.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm

Attachment

## **Information Submitted to TMF for TWCC Review**

**Patient Name:**

**TWCC ID #: M5-04-2567-01**

### **Information Submitted by Requestor:**

- Affidavit of Custodian of Records
- MDR Request/Review
- Letter of Medical Necessity
- MDR Dispute Resolution Request
- Claims and Explanation of Benefits
- Rehab/Work Hardening therapy notes
- Texas Mutual Authorization letters
- First Report of Injury
- Office notes
- Emergency Room record
- MRI report

### **Information Submitted by Respondent:**